

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : To be determined Confirmation No.
Orig Pat No. : 6,358,917
Applicant : CARRUTHERS et al.
Filed : Herewith
Title : COSMETIC USE OF BOTULINUM TOXIN FOR TREATMENT OF DOWNTURNED MOUTH

TC/A.U. : NA
Examiner : NA

Docket No. : D-3127RE
Customer No. : 33197

Mail Stop REISSUE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION AND PETITION FOR REISSUE APPLICATION

Dear Sir:

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name:

I verily believe that I am an original, first and sole inventor (if only one name is listed below), or an original, first and joint inventor (if plural names are listed below) of the invention described and claimed in U.S. Letters Patent No. 6,358,917 (hereinafter called "original patent"), granted March 19, 2002, and in the above-identified reissue application and for which invention I solicit a reissue patent.

I do not know and do not believe that said invention was ever known or used in the United States of America before my invention thereof.

I acknowledge my duty to disclose information of which I am aware which is material to the examination of this reissue application.

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I have reviewed and understand the contents of the specification, including the claims of the specification, and the claims as presented by the preliminary amendment enclosed herein. I believe that no new matter has been added by the changes set forth in this reissue application.

In accordance with 35 U.S.C. § 251, it is submitted that the original patent is partially inoperative for claiming less than the patentee had a right to claim in the patent.

Lines 1-2 of original claim 1 recite "alleviating downturn corners of a patient's mouth". This language may render the patent partially inoperative for claiming less than the patentee had a right to claim in the patent.

Lines 3-4 of original claim 1 recite "locating a depressor anuli oris (DAO) muscle adjacent each corner of said mouth". This language may render the patent partially inoperative for claiming less than the patentee had a right to claim in the patent, in addition to containing a typographical error.

Lines 5-6 of original claim 1 recite "injecting into a DAO adjacent each corner of the mouth, a quantity of Botulnum toxin (BTX) sufficient to cause paralysis of a DAO". This language may render the patent partially inoperative for claiming less than the patentee had a right to claim in the patent, in addition to containing typographical errors.

Lines 1-2 of original claim 2 recite "the quantity of BTX injected into each DAO is about 3-5 Unit equivalents". This language may render the patent partially inoperative for claiming less than the patentee had a right to claim in the patent.

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All errors which are being corrected in this reissue application up to the time of filing of this declaration arose without any deceptive intention on the part of myself.

I respectfully request that I may be allowed to surrender the original patent and that Letters Patent may be reissued to me for the same invention upon the above-identified specification.

I, the undersigned, declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of sole or first inventor (given name, family name):

CARRUTHERS, Jean D.A.

Inventor's signature Jean D.A. Jones Date: 9 Mar 04
Residence: Vancouver, B.C. (Canada) Citizenship CA
Mailing Address: 943 West Broadway, Suite 740
Vancouver, B.C. V5Z 4E1
Canada

Full name of second joint inventor (given name, family name)

CARRUTHERS, Alastair

Inventor's signature Alastair Carruthers Date: 9 Mar 04
Residence: Vancouver, B.C. (Canada) Citizenship CA
Mailing Address: 943 West Broadway, Suite 820
Vancouver, B.C. V5Z 4E1
Canada

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OFFER TO SURRENDER PATENT AND CONSENT OF ASSIGNEE TO FILING OF REISSUE APPLICATION AND STATEMENT UNDER 37 C.F.R. 3.73(b)

Dear Sir:

Allergan, Inc., a Delaware Corporation, is the assignee of the entire right, title and interest in and to U.S. Patent No. 6,358,917, as evidenced by the assignment recorded in the United States Patent and Trademark Office on January 28, 2003 at Reel 013705, Frame 0816.

This U.S. Patent No. 6,358,917 issued on March 19, 2002 for COSMETIC USE OF BOTULINUM TOXIN FOR TREATMENT OF DOWNTURNED MOUTH, and names Jean D.A. Carruthers and Alastair Carruthers as the inventors thereof. Allergan, Inc. hereby offers to surrender said patent in accordance with 37 C.F.R. 1.178, and hereby consents to the filing of the accompanying reissue application based upon U.S. Patent No. 6,358,917.

Executed this 15th day of March 2004.

Allergan, Inc.

By: Matthew J. Maletta
Title: Assistant Secretary